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LATE TESTIMONY

HOUSE COMMITTEE ON ECONOMIC REVITALIZATION & BUSINESS

**TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING HB 118
RELATING TO THE GENERAL EXCISE TAX**

*****WRITTEN TESTIMONY ONLY*****

TESTIFIER: FREDERICK D. PABLO, INTERIM DIRECTOR OF
TAXATION (OR DESIGNEE)
COMMITTEE: ERB
DATE: FEBRUARY 15, 2011
TIME: 8:00AM
POSITION: OPPOSED

This measure adds grace periods for payments of general excise tax and provides a mechanism for taxpayers to pay general excise taxes at the time of submitting their annual return rather than on a monthly, quarterly or semiannual basis.

CONCERNED ABOUT DECOUPLING FORM DUE DATE FROM PAYMENT DUE DATE – The grace period in this bill effectively decouples the deadline for filing periodic general excise tax returns from the deadline for payment of amounts owed.

THE BILL IS UNFAIR – Most taxpayers are able to pay on time. It would be unfair to expect most people to continue to pay on the due date while others are given as much as 180 days extra to pay.

CONCERNED ABOUT THE HARDSHIP LETTER – The Department is concerned about the lack of guidance surrounding the "letter of hardship" in

section 3 of the bill. What sort of circumstances constitute hardship? When is the letter of hardship due to the Department? If it is submitted with the annual return, but ultimately rejected, are penalties and interest then applied?

From: Tina Desuacido [tina500@juno.com]
Sent: Monday, February 14, 2011 3:18 PM
To: ERBtestimony
Subject: LATE TESTIMONY - Tax Foundation Testimony
Attachments: h0118-11.pdf

TRANSMISSION OF TESTIMONY

DATE: Monday, February 14, 2011

TO: House Committee on Economic Revitalization & Business

FROM: Tax Foundation of Hawaii

Total Pages 1

FOR: Rep. Angus McKelvey, Chair

Testifier: Lowell L. Kalapa, President - Tax Foundation of Hawaii

(Mr. Kalapa will not appear in person at the hearing.)

Date of Hearing - Tuesday, February 15, 2011

Position: Comments

Time of Hearing - 8:00 am

HB 118 - Relating to the General Excise Tax (1 page)

Number of copies - 4

Thank you.

TAXBILLSERVICE LATE TESTIMONY

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SUBJECT: GENERAL EXCISE, Payment of general excise tax liability

BILL NUMBER: HB 118

INTRODUCED BY: McKelvey, Awana, Cabanilla, Evans, Hashem, Souki and 5 Democrats

BRIEF SUMMARY: Amends HRS sections 237-30 and 237-33 to provide that in the filing of a monthly, quarterly or semiannual general excise tax return, a grace period of 30 days, 90 days and 180 days, respectively, shall be allowed if delinquent general excise tax payments due during a tax year are made with an annual return which is filed on a timely basis along with a letter of hardship submitted by the taxpayer explaining the late payment.

Also increases the threshold amount of \$4,000 to \$12,000 in general excise tax liability for which the director of taxation may allow a taxpayer to make payment of general excise taxes on a periodic basis.

EFFECTIVE DATE: Tax year beginning after December 31, 2010

STAFF COMMENTS: This measure would establish a grace period for the payment of general excise taxes to assist small businesses to continue to operate. It should be noted that while the general excise is only one tax of many taxes and fees that small businesses may be subject to, similar treatment should be extended to other taxes that may create a hardship to a small business.

That said, it would seem prudent that a business suffering a hardship seek the counsel of the department of taxation as soon as possible. While a taxpayer paying his general excise tax on a semi-annual basis will have a much smaller liability than a taxpayer required to pay on a monthly basis, both are challenged with the prospect of no being able to pay their tax liability on a timely basis. If it is a choice of going out of business or working out a payment plan with the department of taxation, the business probably would opt for a payment that will allow the business to make periodic payments to catch up on the liability. The law currently allows the director of taxation to waive penalties and interest charges in extenuating circumstances. Thus, it would be in the business' best interest to advise the department of its hardships sooner rather than later when penalties will mount with the passage of time.

Digested 2/14/11